



**DEPARTMENT OF FAIR EMPLOYMENT  
AND HOUSING  
*ENFORCEMENT DIVISION*  
*DIRECTIVE***

**DIRECTIVE  
NUMBER  
205**

**DISTRIBUTION  
DATE  
October 1, 1998**

1. **SUBJECT: ACCEPTANCE OF COMPLAINTS AGAINST INDIVIDUALS**
2. **PURPOSE:** To set forth the procedures for identifying situations in which the Department of Fair Employment and Housing (DFEH) has jurisdiction over complaints against individuals.
3. **BACKGROUND:** Generally, the Fair Employment and Housing Act (FEHA) applies only to employers of at least five employees. Certain provisions of the FEHA, however, extend jurisdiction to individual persons. This Directive identifies those situations in which DFEH complaints may be accepted against such individuals.
4. **PROCEDURES:**

Certain provisions of the FEHA prohibit individual **persons** from discriminating against employees or applicants. Complaints naming individual persons as respondents may be accepted in any of the following circumstances:

A. **Respondent As An Agent of the Employer in Harassment and Retaliation Cases:**

The person (respondent) fails to eliminate the harassment or retaliation while acting as an agent of an employer who has responsibilities under Government Code section 12940, subdivisions (h) or (i).

B. **Respondent As A Harasser:**

The person (respondent) **harasses** an employee or applicant because of any of the protected bases (Gov. Code, § 12940, subd. (h)(1)). This applies to harassment by supervisory as well as non-supervisory employees. It also applies to non-employee harassers.

C. **Respondent Retaliates:**

The person (respondent) **retaliates** against another person for opposing practices forbidden by the FEHA, or for filing a DFEH complaint, or participating or testifying in a DFEH proceeding (Gov. Code, § 12940, subd. (f)).

D. **Respondent Aids, Abets, Incites, Compels, or Coerces Discriminatory Acts:**

The person (respondent) **aids, abets, incites, compels, or coerces** acts forbidden by the FEHA, or attempts to do so (Gov. Code, § 12940, subd. (g)).

E. **Employment Agency in Harassment, Retaliation or Aiding and Abetting Case:**

The person (respondent) qualifies as an **employment agency** who receives compensation for procuring employees or opportunities for employment and either harasses, retaliates against, aids, abets, incites, compels or coerces acts forbidden by the FEHA or fails to eliminate harassment or retaliation in compliance with Government Code section 12940, subdivisions (h) or (i).

5. **APPROVAL:**

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Nancy C. Gutierrez, Director

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Date